

PROB 12C
(7/93)

United States District Court

for

District of New Jersey

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Bienvendio Arturo Fernandez

Docket Number: 07-00137-001

PACTS Number: 43024

Name of Sentencing Judicial Officer: HONORABLE Joseph A. Greenaway, Jr.

Date of Original Sentence: 10/22/2007

Original Offense: NARCOTICS - IMPORT

Original Sentence: 36 months imprisonment; 36 years supervised release. Special conditions: drug aftercare, and cooperate in the collection of a DNA sample.

Type of Supervision: Supervised Release

Date Supervision Commenced: 02/01/08

Assistant U.S. Attorney: Adam Lurie, 970 Broad Street, Room 502, Newark, New Jersey 07102, (973) 645-2700

Defense Attorney: Jorge Guttlein, 291 Broadway, Suite 1500, New York, NY 10007, (212) 618-7575

PETITIONING THE COURT

- ☐ To issue a warrant
☒ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number Nature of Noncompliance

1. The offender has violated the supervision condition which states 'Unlawful substance use'

On August 21, 2008, September 15, 2008, and December 4, 2008, the releasee was drug tested via sweat-patch at the United States Probation Department. The aforementioned sweat-patches returned from Scientific Testing Laboratories indicated positive results for cocaine and heroin on the aforementioned dates. Additionally, on November 6, 2008, Fernandez submitted a urine specimen at the Probation Department which also returned positive for cocaine and heroin.

Subsequent to being referred for outpatient drug treatment at SCAN-NY drug program, Fernandez tested positive for cocaine on September 23, 2008, and for cocaine and heroin on October 31, 2008, as evidenced by urine specimens submitted at the aforementioned treatment provider.

2. The offender has violated the supervision condition which states '**Possession of a controlled substance**'

On September 15, 2008, at the United States Probation Department for the Southern District of New York, Fernandez was questioned about statements he made regarding medication that he stated he was taking. Fernandez then took out of his pocket a small plastic bottle which contained a pink liquid inside. Based on Southern District of New York U.S. Probation Officer Raymond Gonzalez's training and experience, the officer recognized the liquid to be methadone. The offender was questioned if it indeed was the aforementioned synthetic opiate. Fernandez stated, "yes." The offender was questioned as to where he obtained it. The offender initially stated through his treatment provider, SCAN-NY. Fernandez was advised that SCAN-NY is not a methadone program and that they are not authorized to prescribe methadone. Upon being told to stop and be very sure of what he is trying to communicate, the offender admitted to obtaining the controlled substance on the streets. The offender was advised that methadone can only be prescribed by a doctor and that he had obtained the drug illegally. The narcotic was confiscated.

3. The offender has violated the supervision condition which states '**The defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that the defendant shall submit to drug treatment, on an outpatient or inpatient basis, as directed by the U.S. Probation Office. The defendant shall abide by the rules of any program and shall remain in treatment until satisfactorily discharged with the approval of the U.S. Probation Office.**'

On December 8, 2008, Fernandez was referred by Southern District of New York U.S. Probation Officer Raymond Gonzalez, to an inpatient long term drug treatment program, Su Casa. Fernandez was given all of the contact information on the aforementioned date and was directed to contact Su Casa and secure placement in the inpatient program.

On December 18, 2008, Fernandez submitted documentation from Su Casa. After inspecting the aforementioned documentation, U.S. Probation Officer Gonzalez learned that the offender did not enroll himself in Su Casa's long term inpatient drug treatment program as directed. Instead he enrolled himself in an out-patient methadone program without the permission of his officer.

4. The offender has violated the supervision condition which states '**You shall not leave the judicial district without the permission of the Court or Probation Officer.**'

On December 1, 2008, Fernandez admitted to Southern District of New York U.S. Probation Officer Gonzalez that he left the judicial district and traveled to Philadelphia to visit family without permission.

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Bienvenido Arturo Fernandez

I declare under penalty of perjury that the foregoing is true and correct.

By: *Kevin J. Mullens*
Senior U.S. Probation Officer
Date: 2/19/09 *JK*

THE COURT ORDERS:

- ☐ The Issuance of a Warrant
☒ The Issuance of a Summons. Date of Hearing: *March 23, 2009 at 11:30 am.*
☐ No Action
☐ Other

JK
Signature of Judicial Officer

2-20-09
Date